

8

Notice of Allowability	Application No.	Applicant(s)	
	09/638,835	WEISS, STEPHEN F.	
	Examiner	Art Unit	
	Erica E Cadugan	3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed August 2, 2004.
2. ☒ The allowed claim(s) is/are 1-9.
3. ☒ The drawings filed on 14 August 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

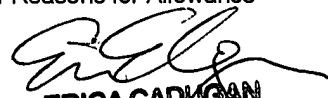
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| <ol style="list-style-type: none">1. <input type="checkbox"/> Notice of References Cited (PTO-892)2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none">5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____7. <input type="checkbox"/> Examiner's Amendment/Comment8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance9. <input type="checkbox"/> Other _____ |
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ERICA CADUGAN
PRIMARY EXAMINER

REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance:

Firstly, it is noted that Applicants remarks on pages 4-5 of the response submitted August 2, 2004 regarding the rejections of the claims under 35 USC 112, first paragraph are persuasive, and the previous rejections under 35 USC 112, first paragraph are hereby withdrawn.

Additionally, the previous art rejections based at least in part on German Patent Document 3734127 and on U.S. Pat. No. 3,942,411 to Gerber are withdrawn in light of the amendment submitted August 2, 2004. It is noted that Applicant's assertions with respect to these references on pages 5-7 of the response are accurate.

Additionally, the prior art of record neither anticipates nor renders obvious the present invention as now set forth in independent claim 1.

Note that references such as U.S. Pat. No. 5,584,620 do not teach the "attachment portion having no openings therein which would allow air into the interior of the attachment portion during operation of the power tool other than the opening for the spiral saw", wherein the "opening" is as set forth in independent claim 1. Note for example that "attachment" 20 has top and bottom openings through which the cutter bit extends, and since it does not appear that the openings are air tight with the bit, the top opening allows air into the suction intake channel 23 (Figure 1, for example). Similarly, in U.S. Pat. 4,200,417, the sleeve or "attachment" 57 has an aspirating opening 58 therein (see Figure 5, for example), in U.S. Pat. No. 5,356,245, 28 is a blowing pipe that blows into 27 and 26 (see Figure 1), in U.S. Pat. No. 5,034,041, air is allowed into member 113/120 at the left ends thereof as viewed in Figure 1 via sweep air apertures 117 and 118 (see Figure 1 and col. 8, line 55 through col. 9, line 3, for example), and in U.S. Pat. No.

Art Unit: 3722

4,652,184, it appears that there is a spacing between suction head 2 and the bit that passes therethrough (Figures 1-2), and thus air can enter from the hole at the bottom thereof (bottom is as viewed in Figure 1).

Regarding U.S. Pat. No. 6,079,078, it is noted that the attachment portion contacting the workpiece 6 is not "rigid" as set forth in independent claim 1.

Regarding U.S. Pat. No. 5,688,082, it is noted that the tool 22 is a spade-type drill bit rather than anything that could be considered a spiral saw, and it does not appear that the interior diameter of the attachment portion at its forward edge is "more than two times greater than the diameter" of the cutting tool.

Regarding U.S. Pat. No. 5,947,661, it is noted that '661 explicitly teaches that "attachment" 14 is spaced from the workpiece during operation and should not come in contact with the workpiece (col. 6, lines 26-32, for example), and thus '661 does not teach that the "attachment portion is further adapted to permit a moving contact between a forward edge of the first attachment portion and an abutting surface of the workpiece to be cut by the spiral saw" as set forth in independent claim 1.

Additionally, there is no combinable teaching in the prior art of record that would reasonably motivate one having ordinary skill in the art to so modify the teachings of any of the aforescribed prior art, and thus, for at least this reasoning, the aforescribed prior art does not render obvious the present invention as set forth in independent claim 1.

The aforescribed prior art of record being a representative sample of the different types of prior art of record closest to the present invention as set forth in present independent claim 1,

Art Unit: 3722

the prior art of record neither anticipates nor renders obvious the present invention as set forth in independent claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

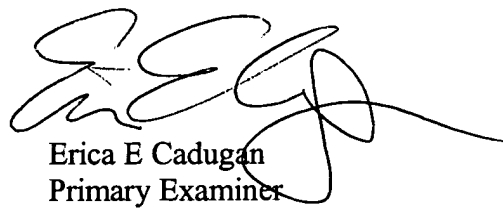
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erica E Cadugan whose telephone number is currently (703) 308-6395. The examiner's telephone number will be changed to (571) 272-4474 on approximately November 10, 2004. The examiner can normally be reached on M-F, 7:30 a.m. to 5:00 p.m., alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea L. Wellington can be reached on (703) 308-2159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR

Art Unit: 3722

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Erica E Cadugan
Primary Examiner
Art Unit 3722

eec
October 14, 2004